

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SP-02 AID-05 EB-07 NSC-05 CIEP-01

TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00 COME-00

FRB-03 INR-07 NSAE-00 USIA-06 XMB-02 OPIC-03 LAB-04

SIL-01 IGA-01 L-03 H-02 /086 W
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R 251727Z JUL 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 3213

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DEPARTMENT PASS TREASURY, FRB

E.O. 11652: N/A

TAGS: E/FIN: UK

SUBJECT: UK INSURANCE SUBSIDIARY OF AN AMERICAN COMPANY
IN DIFFICULTIES

SUMMARY. FIDELITY LIFE ASSURANCE LTD., A UK SUBSIDIARY OF FIDELITY CORPORATION OF RICHMOND, VIRGINIA, PLACED ONE MILLION POUNDS IN A FIVE YEAR DEPOSIT WITH A BRITISH FRINGE BANK, LONDON AND COUNTY SECURITIES LIMITED IN OCTOBER 1973. LONDON AND COUNTY SECURITIES HAS SINCE BECOME INSOLVENT. THE RESCUE OPERATION HEADED BY THE BANK OF ENGLAND HAS REFUSED TO PURCHASE (I.E., GUARANTEE) FIDELITY'S DEPOSIT, PRIMARILY DUE TO THE TIMING AND NATURE OF THE DEPOSIT. IN TURN, THE DEPARTMENT OF TRADE HAS ASKED FIDELITY TO INCREASE ITS CAPITAL BY 750,000 POUNDS OR ELSE DEPARTMENT OF TRADE THREATENS TO TAKE COURT ACTION ON JULY 28 TO PUT FIDELITY INTO INVOLUNTARY LIQUIDATION. FIDELITY REPORTS THAT IT HAS NO INTENTION OF MAKING SUCH PAYMENT, IN TURN CLAIMS THAT FAILURE OF BANK OF ENGLAND TO GUARANTEE IN FULL ITS DEPOSIT AT LONDON AND COUNTY IS REFLECTION OF ANTI-AMERICAN ATTITUDE AND DISCRIMINATION

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ON THE PART OF THE BANK OF ENGLAND. BANK OF ENGLAND DE-

NIES THIS ALLEGATION. END SUMMARY

1. ON JUNE 7, MESSRS RICHARDS AND MELTZER OF FIDELITY CORPORATION OF RICHMOND, VIRGINIA, CALLED ON FINANCIAL ATTACHE, OUTLINED THE DIFFICULTIES OF THEIR UK SUBSIDIARY FIDELITY LIFE ASSURANCE LIMITED. A ONE MILLION POUND DEPOSIT MADE IN OCTOBER 1973 FOR A FIVE-YEAR PERIOD WITHOUT A BREAK PROVISION WAS NOT BEING HONORED (I.E., PURCHASED BY) THE BANK OF ENGLAND AND THE LARGE PRIVATE BANKS (THE LIFEBOAT COMMITTEE) ENGAGED IN PICKING UP THE PIECES OF THE FRINGE BANK FAILURES THAT HAVE PLAGUED THE UK SINCE 1973. FIDELITY'S ESSENTIAL ALLEGATION IS THAT THE BANK OF ENGLAND HAS DECIDED NOT TO TREAT FIDELITY LIFE ASSURANCE LTD IN THE SAME MANNER AS OTHER DEPOSITORS IN LONDON AND COUNTY SECURITIES. THE FIVE YEAR DEPOSIT HAS NO BREAK CLAUSE, AND IS BEING VIEWED BY THE BANK OF ENGLAND AS MORE AKIN TO A MEDIUM TERM LOAN THAN A BANK DEPOSIT; THE BANK OF ENGLAND POSITION BEING THE "LIFEBOAT" SUPPORT OPERATIONS ARE DESIGNED TO PROTECT ORDINARY DEPOSITORS RATHER THAN LONG-TERM PLACEMENTS. AS A RESULT, FIDELITY LIFE ASSURANCE MAY ONLY RECEIVE HALF THE AMOUNT OF ITS DEPOSIT ON THE EVENTUAL LIQUIDATION OF LONDON AND COUNTY. IN TURN, DEPARTMENT OF TRADE CONSIDERS THAT FIDELITY IS UNABLE TO MEET ITS CURRENT OBLIGATIONS AND UNLESS FIDELITY LIFE ASSURANCE'S CAPITAL IS INCREASED BY 750,000 POUNDS BY JULY 25, THE DEPARTMENT OF TRADE SAYS IT WILL TAKE STEPS ON JULY 28 TO BRING FIDELITY INTO INVOLUNTARY LIQUIDATION. THE FIRM HAS APPROXIMATELY 13,000 UK POLICY HOLDERS.

2. FIDELITY OFFICIALS ALLEGE THAT BANK OF ENGLAND IS NOT MEETING ITS RESPONSIBILITIES AND THAT BY FAILING TO PAY OR GUARANTEE FIDELITY LIFE ASSURANCE LTD DEPOSIT IN FULL, IT IS EXHIBITING AN ANTI-AMERICAN ATTITUDE. THESE POINTS ALSO WERE MADE IN WRITING WITH CONSIDERABLE DOCUMENTATION ATTACHED, COPIES BEING AIR POUCHED DEPARTMENT, TREASURY, FRB AND COMMERCE.

3. MESSRS RICHARDS AND MELTZER REQUESTED FINANCIAL ATTACHE TO LOOK INTO THE MATTER WITH BANK OF ENGLAND, LIMITED OFFICIAL USE

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AGREEING THAT COPY OF THEIR LETTER AND DOCUMENTATION COULD BE GIVEN TO THE BANK OF ENGLAND AT THE SAME TIME.

4. ON JULY 16, FINANCIAL ATTACHE CALLED ON SIR JASPER HOLLAM, DEPUTY GOVERNOR, BANK OF ENGLAND, WITH WHOM MESSRS MELTZER AND RICHARDS HAD PREVIOUSLY HELD DISCUSSIONS. HOLLAM FLATLY DENIED ANY ANTI-AMERICAN BIAS ON PART OF BANK OF ENGLAND. HE STATED FAILURE TO GUARANTEE

OR PURCHASE THE FIVE-YEAR DEPOSIT WAS CONSISTENT WITH PREVIOUSLY ESTABLISHED BANK OF ENGLAND POLICY. IN A PREVIOUS FRINGE BANK FAILURE, THAT OF TARGET INVESTMENT TRUST, TWO SIMILAR MEDIUM-TERM DEPOSITS WERE NOT PURCHASED BY THE BANK OF ENGLAND. IN THE LONDON AND COUNTY FAILURE, ONE OTHER SUCH DEPOSIT MADE BY THE CROWN AGENTS,

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A PUBLIC BODY, WAS NOT PURCHASED BY THE BANK OF ENGLAND. CROWN AGENTS LATER RECEIVED FUNDS FROM THE GOVERNMENT TO MAKE UP THE LOSS, BUT HOLLOM DREW A SHARP DISTINCTION BETWEEN THE GOVERNMENT BAILING OUT THE CROWN AGENTS AND AN ABSOLUTE REFUSAL OF THE BANK OF ENGLAND TO MAKE ANY COMPROMISE ON CROWN AGENT'S DEPOSIT WITH LONDON AND COUNTY. HOLLOM ADDED THAT SHOULD THERE BE FURTHER FAILURES, THE BANK OF ENGLAND WILL FOLLOW A SIMILAR POLICY OF NOT GUARANTEEING DEPOSITS WHICH ARE MEDIUM OR LONG TERM FIXED COMMITMENTS WITH NO BREAK PROVISIONS.

5. WHEN ASKED ON WHAT LEGAL BASIS HE COULD MAKE SUCH A DISTINCTION, ARBITRARILY DECIDING THAT A FIVE-YEAR DEPOSIT WAS A MEDIUM-TERM LOAN RATHER THAN A DEPOSIT, HOLLOM SAID THAT BANK OF ENGLAND IS NOT REQUIRED TO MAKE

SUCH A DISTINCTION. ITS ASSISTANCE TO ORDINARY DEPOSITORS IS ON AN EX GRATIA BASIS, AND ONLY WHEN THE BANK OF ENGLAND IS SATISFIED THAT A DEPOSIT IS OF THE TYPE MADE IN THE ORDINARY COURSE OF BANKING. THE FIDELITY LIFE DEPOSIT DID NOT MEET THIS DESCRIPTION. HOLLAND REPORTED THAT THE BANK OF ENGLAND AND OTHER UK FINANCIAL INSTITUTIONS INVOLVED IN ATTEMPTING TO RESCUE LONDON AND COUNTY HAD THEMSELVES LOST ABOUT 40 MILLION POUNDS IN / LIMITED OFFICIAL USE

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THE PROCESS. THE LIFEBOAT COMMITTEE, AS IT IS TERMED, COULD CONTINUE TO PUT MONEY INTO LONDON AND COUNTY AS LONG AS IT WAS ILLIQUID, I.E., AS LONG AS ITS ASSETS AT LEAST EQUALLED LIABILITIES. HOWEVER, WHEN IT BECAME INSOLVENT, I.E., LIABILITIES EXCEEDING ASSETS, UK LAW REQUIRED THAT THE COMPANY CEASE TO OPERATE AND ITS AFFAIRS BE WOUND UP. HOLLAND WAS VERY FIRM AND OFFERED NO POSSIBILITY OF THE BANK'S POSITION BEING CHANGED. HE SAID IT WAS UNFORTUNATE, BUT STRESSED THAT THE LIFEBOAT OPERATION IS DESIGNED TO PROTECT ORDINARY DEPOSITORS. IT IS NOT DESIGNED TO PROTECT LONG-TERM DEPOSITORS FROM IMPRUDENCE.

6. COMMENT: BELIEVE THAT AN IMPLIED MESSAGE IN HOLLAND'S COMMENTS IS THAT FIDELITY LIFE ASSURANCE USED POOR BUSINESS JUDGMENT IN MAKING A FIVE-YEAR DEPOSIT IN LATE 1973 WITH A FRINGE BANK NOT THEN UNDER THE CONTROL OR AEGIS OF THE BANK OF ENGLAND. THE FIDELITY REPRESENTATIVES IN ORAL CONVERSATION ADMITTED IT WAS POOR JUDGMENT NOT TO HAVE INCLUDED A BREAK CLAUSE, BUT CONSIDER THAT BECAUSE THE BANK OF ENGLAND BECAME INVOLVED IN THE RESCUE ATTEMPT, EVENTUALLY PURCHASING HALF THE SHARES OF LONDON AND COUNTY SECURITIES FOR A NOMINAL AMOUNT, THAT THE BANK OF ENGLAND IS LIABLE FOR THE DEPOSIT. FIDELITY REPRESENTATIVES INDICATED THAT THEY ARE CONSIDERING BRINGING SUIT AGAINST THE BANK OF ENGLAND. FINANCIAL ATTACHE ADVISED THEM TO TAKE WHATEVER LEGAL REMEDIES THEY CONSIDER EXIST AND APPROPRIATE TO THEM UNDER UK LAW. HOWEVER, BANK OF ENGLAND APPEARS TO BELIEVE THAT IT HAS AN UNSHAKABLE CASE.

7. WOULD APPRECIATE ANY GUIDANCE WASHINGTON MIGHT CONSIDER APPROPRIATE.

RICHARDSON

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